

# **MORGANTOWN PLANNING COMMISSION**

## **MINUTES**

**6:30 PM**

**June 13, 2013**

**Council Chambers**

**MEMBERS PRESENT:** Peter DeMasters, Sam Loretta, Bill Petros, Carol Pyles, William Wyant, Tim Stranko

**MEMBERS ABSENT:** Michael Shuman, Ken Martis, Jennifer Selin

**STAFF:** Christopher Fletcher, AICP

**I. CALL TO ORDER/ROLL CALL:** DeMasters called the meeting to order at 6:30 PM and read the standard explanation of the how the Planning Commission conducts business and rules for public comments.

**II. GENERAL PUBLIC COMMENTS:** None

**III. MATTERS OF BUSINESS:**

**A. Approval of April 25, 2013 meeting minutes:** Loretta moved to table the minutes from the April 25, 2013 meeting due to lack of quorum of members present who were present at the April 25<sup>th</sup> hearing; seconded by Pyles. Motion carried unanimously.

**IV. OLD BUSINESS:** None.

**V. NEW BUSINESS:**

**A. MNS13-11 / Friend Rentals, LLC / 144 and 146 Third Street:** Request by David C. Friend, on behalf of Friend Rentals, LLC, for minor subdivision approval of property located at 144 and 146 Third Street: Tax Map 20, Parcels 47, 48 and 49; R-3, Multi-Family Residential District.

Fletcher read the Staff Report stating that the petitioner seeks to combine Parcels 47, 48 and 49 into one parcel. Addendum A of this report illustrates the location of the subject site.

The approximate areas of the three existing parcels are: Parcel 47 – 1,600 square feet; Parcel 48 – 1,760 square feet; and Parcel 49 – 3,368 square feet. The combined parcel would have an approximate total area of 6,728 square feet and approximately 97 feet of frontage on Third Street. A five-unit apartment building and associated parking are planned for this location.

The combined parcel exceeds the minimum lot size standard of 4,000 square feet and minimum lot frontage of 4,000 square feet in the R-3 District.

Fletcher noted the petitioner had requested Staff to represent the minor subdivision request and had no further information to add.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval of MNS13-11 with the following conditions:

1. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature;
2. That the final plat may not be recorded until all existing structures are razed and removed; and,
3. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

Stranko moved to approve minor subdivision petition MNS13-11 as requested with Staff recommended conditions; seconded by Wyant. Motion carried unanimously.

**B. MNS13-12 / Benton Financiers, Inc. / 508 Beechurst Avenue:**

Request by Scott Batt, on behalf of Benton Financiers, Inc., for minor subdivision approval of property located at 508 Beechurst Avenue; Tax Map 19, Parcels 60 and 62; B-2, Service Business District.

Fletcher read the Staff Report stating the petitioner seeks to take the northeast portion of Parcel 60 and add same to Parcel 62 so that the accessory garage structure on Parcel 60 is situated on the same tract as its principal residence structure on Parcel 62. Addendum A of this report illustrates the location of the subject site.

The minimum lot size standard in the B-2 District is 6,000 square feet. Parcel 60 is approximately 5,000 square feet and Parcel 62 is approximately 625 square feet. The proposed subdivision will increase the extent of the nonconforming area for Parcel 60. However, the extent of the nonconforming area for Parcel 62 will be decreased and the principal and accessory structures will be located on the same parcel as a result of the proposed subdivision.

Fletcher stated the petitioner had requested Staff to represent the minor subdivision request. Fletcher noted the tax map within the Staff Report illustrates the parcel which is very small in size and includes a single family dwelling. There is a garage behind the dwelling which has historically been used as off street parking for the house on Fifth Street. Fletcher understands that Mr. Batt is participating in the transfer of ownership of the properties and a subdivision is necessary so the principal and accessory structures will be located on the same parcel.

DeMasters asked Fletcher if the two parcels would remain as non-conforming after the subdivision. Fletcher confirmed.

Wyant asked if additional actions are necessary since the parcels would not meet the minimum 6,000 square foot requirement. Fletcher stated no additional actions are required.

Loretta asked if both parcels could be combined into one single parcel. Fletcher explained it was possible to combine the parcels however it would create a new non-conformity in that two principal structures would be on the same piece of property.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval of MNS13-12 with the following conditions:

1. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
2. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the condition set forth above.

Stranko moved to approve minor subdivision petition MNS13-12 as requested with Staff recommended conditions; seconded by Petros. Motion carried unanimously.

- C. MNS13-13 / Hartford Construction, LLC / 1349 College Avenue:** Request by Lisa Mardis of Project Management Services, on behalf of Hartford Construction, LLC, for minor subdivision approval of property located at 1349 College Avenue; Tax Map 21, Parcel 65; R-1A, Single-Family Residential.

Fletcher read the Staff Report stating the petitioner seeks to subdivide the existing parcel into two parcels thereby creating a new buildable lot. Addendum A of this report illustrates the location of the subject site.

One of the proposed parcels will be approximately 4,229.45 square feet and the other will be approximately 4,356 square feet, both of which exceed the minimum lot size standard of 3,500 square feet in the R-1A District.

DeMaster recognized Taylor Richmond of Project Management Services, on behalf of the petitioner, who stated the intent of the petitioner is to combine the two parcels and then place two single family structures on the property for either sale or rent. Taylor concurs with the Staff Report and asked the Board to approve the request.

Stranko asked if Hartford Construction is a Limited Liability Company. Richmond confirmed. Stranko asked if the company had previous experience in the Morgantown area. Richmond stated Hartford had done subcontracting for the Biafora's and Metro Properties, and was not aware of other previous projects.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval of MNS13-13 with the following conditions:

1. That the subdivision of the subject parcel may not create as setback encroachment for the existing principal or accessory structures nor exceed the maximum lot coverage standard for the R-1A District.

2. That the subdivision of the subject parcel may not result in frontages of less than thirty (30) feet.
3. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
4. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the conditions set forth above.

Stranko moved to approve minor subdivision petition MNS13-13 as requested with Staff recommended conditions; seconded by Wyant. Motion carried unanimously.

- D. MNS13-14 / Wilson / 1300 Charles Avenue:** Request by Eric Wilson for minor subdivision approval of property located at 1300 Charles Avenue; Tax Map 21, Parcels 148, 148.1, and 149; R-1, Single-Family Residential District.

Fletcher read the Staff Report stating that the petitioner seeks to combine Parcels 148, 148.1 and 149 of Tax Map 21 to create a single parcel. Addendum A of this report illustrates the location of the subject site.

The total area of the combined parcels will be approximately of 28,000 square feet. The proposed parcel exceeds the minimum lot area standard of 7,200 square feet and minimum frontage standard of 70 feet in the R-1 District.

By combining the parcels, the petitioner may proceed in constructing a storage shed while ensuring that the accessory structure is located on the same parcel as the principal structure as required under Article 1329.02.

DeMasters recognized Eric Wilson of 1300 Charles Avenue who stated he is building a storage shed and needs to combine the parcels for tax purposes.

There being no comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition. There being no public comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff recommends approval of MNS13-14 with the following conditions:

1. That the petitioner submit three (3) original final plat documents, including all access/utility easements if applicable, signed and sealed by a surveyor licensed in the State of West Virginia for the Planning Commission President's signature; and,
2. That the final plat is filed at the Monongalia County Courthouse within thirty (30) days of meeting the condition set forth above.

Stranko moved to approve minor subdivision petition MNS13-14 as requested with Staff recommended conditions; seconded by Wyant. Motion carried unanimously.

- E. **RZ13-01 / Double G Properties, LLC / Stewart Street:** Request by Lisa Mardis, on behalf of Double G Properties, LLC, for a Zoning Map Amendment from R-1A, Single-Family Residential District to R-2, Single- and Two- Family Residential District for vacant property on Stewart Street; Tax Map 14, Parcel 447.

Fletcher read the Staff Report stating the petitioner seeks approval to reclassify the subject property from R-1A to R-2. Addendum A of this report illustrates the location of the subject property.

Because the subject area adjoins the R-2 District at the site's eastern side, the proposed zoning map amendment is considered a zoning district boundary adjustment and not "spot zoning" as the following image illustrates [see staff report for illustration].

The following figure is a portion of Map LU-2 of the 1999 Comprehensive Plan and illustrates that the planned use for the subject properties was "Single-Family Residential" [see staff report for illustration].

West Virginia State Code §8A-7-8 provides that if a zoning amendment is inconsistent with the adopted Comprehensive Plan, then City Council, with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and that those changes have substantially altered the basic characteristics of the area.

The scale, intensity, and density of development along the eastern side of Stewart Street have increased over the past few years as permitted in the adjoining R-2 District. However, it is the opinion of the Planning Division that maintaining the R-1A District classification on the east side of Stewart Street and Willowdale Road, particularly north of the Highland Avenue / Stewart Street intersection, is paramount to maintaining present community-wide single-family neighborhood goals and objectives.

Specifically, Morgantown has taken several legislative and administrative policy steps since the early 1990s to preserve and protect traditional owner-occupied neighborhoods like Wiles Hill – Highland Park. These land use strategies are intended to sustain the desirability, quality of life, and economic vitality of each traditional single-family neighborhood and the community as a whole.

According to Article 1335.01 of the Planning and Zoning Code, the purpose of the R-1A District is to:

- (A) Provide for single-family neighborhoods on smaller lots, located within convenient walking distances of other uses, and
- (B) Preserve the desirable character of existing single-family neighborhoods, and
- (C) Protect the single-family residential areas from change and intrusion that may cause deterioration, and
- (D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

According to Article 1337.01 of the Planning and Zoning Code, the purpose of the R-2 District is to:

- (A) Provide for two-family housing development and customary accessory uses at a density slightly higher than in single family neighborhoods, and
- (B) Preserve the desirable character of existing medium density family neighborhoods, and
- (C) Protect the medium density residential areas from change and intrusion that may cause deterioration, and
- (D) Provide for adequate light, ventilation, quiet, and privacy for neighborhood residents.

Zoning map amendment requests should be evaluated on their land-use merits alone. The petitioners' development intentions are extraneous and the Commission should consider the request on its merits as a land-use decision. In conducting such an analysis, the Commission should determine if the R-2, Single- and Two-Family Residential District is the appropriate zoning classification for the subject realty, weighing all possible future development and land use scenarios as permitted by the Planning and Zoning Code; particularly, Article 1337 "R-2, Single- and Two-Family Residential District" and Table 1331.05.01 "Permitted Land Uses".

DeMasters recognized Taylor Richmond of Project Management Services, on behalf of the petitioner, who stated the property is located on a vacant lot along Stewart Street and Willowdale Road. According to the MPO traffic report, traffic flow has increased immensely making it one of the most highly traveled thoroughfares of the city. The road connects to 705 and University Avenue, joins both the University Health Science Center with the downtown area and is located across multiple structures in the R-2 zone that have changed the style and environment of the area. His client feels the preservation of the R-1A District is important however the changes in the environment warrant the area to be rezoned in order to accommodate the capacity in a busy part of town.

DeMasters asked Richmond to be specific on the economic, physical or social changes to the environment that have developed but were not anticipated.

Richmond noted the changes to the Suncrest Town Centre, the development of major housing complexes along Stewart Street and the general increases in traffic congestion as major changes that have occurred to the environment. He noted traffic had increased along Stewart Street by 86 percent in the past year due to increased congestion from out of town travelers commuting to work on a daily basis.

DeMasters brought attention to the fact the property does not border the Suncrest Town Centre, but rather borders a neighborhood. Richmond understood but stated that people utilize the road to get to the access roads that include places like the Suncrest Town Centre.

DeMasters noted that traffic density would increase more with the proposed multi-family units. Richmond explained they are trying to attract residents that would utilize the walkability in the area and choose non-vehicle transportation as a means of getting around.

Petros asked how this area would be within walking distance of the Suncrest Town Centre. Taylor explained that people could utilize Don Knotts Boulevard and then the walking path along 705, however noted there are other ways to get around town other than walking such as the Mountainline Transit System.

There being no further comments or questions by the Commission, DeMasters opened the public hearing asking if anyone was present to speak in favor of or in opposition to the petition.

DeMaster recognized Richard Dumas, a resident of Wiles Hill, who stated that rezoning would open the property to conditional uses in the future, such as rooming houses, halfway houses, fraternities, sororities, cell phone towers, parking lots and health clubs. He noted that Stewart Street separates the R-2 area from the R-1A area of Wiles Hill. Dumas encouraged the Planning Commission to look at the slippery slope this request could cause for other R-1 and R-1A neighborhoods within Morgantown.

DeMasters introduced Sylvanus Waibogha of 629 Junction Street, who stated he has lived at his residence since 1989, when there were very few houses and not a lot of traffic. His property is approximately 20 feet from the proposed development and feels traffic congestion, trash and noise would increase with the proposed development and rezoning. In addition, he feels that property values would decrease in the area and asked the Planning Commission to deny the proposed rezoning request.

DeMasters recognized Charlie Byer of the Wiles Hill neighborhood, who stated he supports the Staff Report to deny the request and noted the R-1A District has been good to the residents of Morgantown. Byer feels the rezoning of the property would be classified as "spot zoning" and the R-1A zoning classification has protected the integrity and quality of life for the Wiles Hill Neighborhood over the years. He asked the Planning Commission to deny the request as it would set a dangerous precedent for most of the residential neighborhoods in Morgantown.

DeMasters recognized Jimmie Simmons of 127 Willowdale Road, who stated she is a member of the Wiles Hill Neighborhood Association and commended the Staff on their recognition of the value of the R-1A District. The R-1A District allows space and is different from the community that bounds the road. The R1-A District allows for trees, flowers, playgrounds and sidewalks. Simmons noted that without the R1-A District, the value of the City is degraded.

DeMasters recognized Ann Dacy of 339 Virginia Avenue, who stated she owns two wooded lots across from the property that was purchased to protect the Wiles Hill Neighborhood. Dacy noted that if she ever sold the property, she would build single family homes as it is important to preserve the R-1A neighborhood. She feels the proposed rezoning request is "spot zoning" and should be used only for public purposes which would result in public benefit and not a single corporation.

DeMasters recognized Roger Banks of 444 Overhill Street, who asked the Planning Commission to deny the rezoning request based on the Staff Report and the previous comments made by the concerned citizens of Wiles Hill.

DeMasters recognized Kathryn Lozier of 345 Virginia Avenue, who stated the builder of the proposed development does not take care of his things and she doesn't trust him to take care of his people and his property.

DeMasters recognized JoAnn Hornsby of 307 Duquesne Street, who agreed with the recommendations of the Staff Report and asked to Planning Commission to deny the rezoning request.

DeMasters recognized William E. Blosser of 127 Willowdale Road, who asked the Planning Commission to deny the rezoning request and noted the City Planner's recommendations are in accordance with the natural barrier that Stewart Street provides.

DeMasters invited Richmond to the podium for an opportunity of rebuttal. Richmond noted the request is not for "spot zoning". He disagreed with the slippery slope argument made earlier as it is all a slippery slope when increasing any kind of density. He explained the natural border of Stewart Street should be Crescent Street, as it would add a much more reliable and feasible border to the Wiles Hill Neighborhood. Richmond restated the fact that traffic congestion has increased with the recent developments but is not caused by higher density and stated his client has a long history of redeveloping in the Sunnyside area with results that are aesthetically pleasing to help in revitalizing the area.

Richmond explained the goal of his client is to provide a structure that would fit well with the Neighborhood Association in the R1-A environment and would not assume to be only student housing.

There being no further comments, DeMasters declared the public hearing closed and asked for staff recommendations.

Fletcher stated that Staff advises the Commission to forward a recommendation to City Council to deny the requested zoning map amendment so that Parcel 447 of Tax Map 14 remains, at this time, R-1A, Single-Family Residential District.

Stranko stated he supports the Staff recommendation and feels the R-1A area is valued by many residents and should be preserved.

DeMasters suggested the Commission be presented with evidence of an unanticipated major change in economic, physical or social nature with the areas involved when looking at rezoning requests. He did not believe that was present with this rezoning petition.

Stranko agreed and noted even if the threshold is met, the Commission is not obliged to surrender its prerogative, and would exercise judgment based on the best interest of the community.

Loretta stated he supports the Staff recommendation and noted the map shows one side as an R-1A district and the other side being an R-2 district which is a natural boundary.

Petros stated he supports the Staff recommendation as well and hopes there is as much interest when discussing rezoning areas with the new Comprehensive Plan.

Stranko agreed and noted the importance of getting it right.

Petros noted the importance of community advocacy when moving forward.

Stranko moved to forward a recommendation to City Council to deny the requested zoning map amendment RZ13-01 so that Parcel 447 of Tax Map 14 remains; seconded by Loretta. Motion carried unanimously.



Fletcher asked Richmond to confer with his client on his wishes to either continue his pursuit of the zoning map amendment petition or withdraw and asked that a written communication of his client's wishes be submitted to Staff accordingly.

**VI. OTHER BUSINESS:**

**A. Committee Reports**

- Traffic Commission: Wyant stated the Traffic Commission is working on improving walkability with new or improved sidewalks in the community. Additional traffic lights have been installed and the traffic flow along some of the roadways has begun to alter the nature of the street system in Morgantown. Wyant suggested the Planning Commission meet with the Traffic Commission to discuss new transportation aspects of the Comprehensive Plan and the expectation for the growing number of vehicles on the roadway. Stranko suggested routine communication with the DOH in the future as well as a discussion with the Traffic Commission.
- Green Team: No report.

- B. Staff Comments:** Fletcher announced that City Council scheduled a public hearing and second reading for the Comprehensive Plan to be held on Tuesday, June 18, 2013 at 7:00 PM.

**VII. FOR THE GOOD OF THE COMMISSION:**

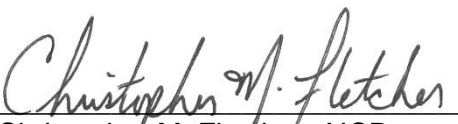
Loretta also asked Fletcher to inform applicants and members of other committees, commissions, and boards that it is unethical to contact members of the Planning Commission concerning matters before the Commission as it is in the best interest of public to protect and preserve an open and transparent government. Fletcher confirmed.

**VIII. ADJOURNMENT: 7:30 PM**

MINUTES APPROVED:

September 12, 2013

COMMISSION SECRETARY:

  
Christopher M. Fletcher, AICP